

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2000-606-W/S - ORDER NO. 2001-395

APRIL 25, 2001

IN RE: Application of River Pines Water System,)	ORDER DENYING
Inc. for Approval to Sell its Stock to)	REQUEST AND
Piedmont Water Co., Inc.)	GRANTING WAIVER

This matter comes before the Public Service Commission of South Carolina (the Commission) on the request of the River Pines Water System, Inc. (River Pines) for this Commission to reject the intervention of the South Carolina Department of Health and Environmental Control (DHEC) for failure to serve its Petition to Intervene in this matter on River Pines.

River Pines filed an Application requesting a sale of its stock to Piedmont Water Company, Inc. (Piedmont). Prior to the return date in the matter, DHEC filed a Petition to Intervene. However, DHEC only served Louis Lang, Esquire, attorney for Piedmont, at the time of filing. DHEC indicated through its filing that it had done so. Only after the return date had expired did DHEC serve River Pines and the other Intervenor in the case, the Consumer Advocate for the State of South Carolina. DHEC also served the owner of Piedmont after the return date. River Pines has requested that we reject DHEC's Petition to Intervene.

Commission Regulation 103-841(C)(3) states that a person filing a petition to intervene shall file the petition with certification that service of the petition has been made on all parties of record. It is clear that DHEC is in violation of this Regulation, and

that service after the return date does not cure the requirement that certification of service of the petition having been served on all parties must accompany the petition to intervene upon filing.

However, we would note that Commission Regulation 103-803 states that in any case where compliance with the Commission's Rules and Regulations produces unusual hardship or difficulty, the application of such rule or regulation may be waived by the Commission upon a finding by the Commission that such waiver is in the public interest.

It appears to this Commission that DHEC is not familiar with our Commission Rules and Regulations. It also appears to us that there was some confusion at the beginning of this case about what lawyer represented what Applicant, and what other parties might be present in the case.

We would note that DHEC states that it wishes to participate in this matter to insure that Piedmont has the adequate capital and managerial commitment to properly operate and maintain its existing water systems as well as those new systems which Piedmont would acquire if the Commission approves River Pines' request to sell stock to Piedmont. DHEC states that it has an interest in requiring Piedmont to demonstrate that it has the financial ability to operate newly acquired systems. DHEC also states that its intervention will not unduly delay the proceedings.

We have examined this matter, and have determined that the provisions of Regulation 103-803 have been met, and the non-compliance with Regulation 103-841 (C)(3) should be waived. We think unusual difficulty in complying with this Regulation resulted due to confusion about the parties at the beginning of this case, and due to

DHEC's unfamiliarity with our Regulations. We also believe that a waiver is in the public interest in this case. We are interested to hear what DHEC may have to say about the adequacy of the capital and managerial commitment of Piedmont to operate both its existing water systems and the River Pines system, should we grant approval for River Pines to sell its stock to Piedmont. We also believe that allowing DHEC to participate will not unduly delay the proceedings.

Accordingly, a waiver of compliance with Regulation 103-841(C)(3) is granted to DHEC, who shall be a party to this case, and the request of River Pines to exclude DHEC as a party is denied. DHEC shall have full rights to participate as an Intervenor in this case.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Executive Director

(SEAL)